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EXAMINER
HANNE, SARA M

ART UNIT	PAPER NUMBER
2179	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/087,205	BLOMQUIST, MICHAEL L.
	Examiner	Art Unit	
	SARA M. HANNE	2179	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>10 June 2008</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-16</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-16</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.　　Claims 1-16 are currently pending.

Claim Rejections - 35 USC § 112

2.　　The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the
> manner and process of making and using it, in such full, clear, concise, and exact
> terms as to enable any person skilled in the art to which it pertains, or with which
> it is most nearly connected, to make and use the same and shall set forth the
> best mode contemplated by the inventor of carrying out his invention.

3.　　Claims 1-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to

comply with the written description requirement.　The claim(s) contains subject matter

which was not described in the specification in such a way as to reasonably convey to

one skilled in the relevant art that the inventor(s), at the time the application was filed,

had possession of the claimed invention.　Specifically, the amendments to the

Independent Claims 1, 8, 15 and 16 now reciting: "the banner comprising user-defined

non-pump parameter content".　This "non-pump parameter content" has not been

defined nor disclosed in the specification.　Any negative limitation or exclusionary

proviso must have basis in the original disclosure.　The mere absence of a positive

recitation is not basis for exclusion.　MPEP 2173.05(i).

Claim Rejections - 35 USC § 103

4.　　The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the
invention was made to a person having ordinary skill in the art to which said subject matter pertains.
Patentability shall not be negatived by the manner in which the invention was made.

5.   Claims 1-4, 6-10 and 12-16 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Campbell et al., US Patent Application Publication 2005/0137530,

hereinafter Campbell and further in view of Malave et al., US Patent Application

Publication 2002/0193679, priority 9/29/1999, hereinafter Malave.

As in Independent Claims 1 and 15, Campbell teaches a pump and method for

programming the pump comprising generating a user interface having a plurality of

pages, one of the pages being a home page (Page 1, par 6), a data port (cradle ref. 46),

memory for storing a banner retrieved from the dataport (memory, ref. 16), retrieving a

banner from memory (Page 5, Par. 58), and displaying the retrieved banner in the home

page on a screen (LCD, ref. 18, Fig. 22 status). While Campbell teaches the hardware

and method of retrieving a banner and displaying in a home page on a screen, they fail

to show the banner comprising user-defined non-pump parameter content as recited in

the claims. In the same field of the invention, Malave teaches a method for configuring

a pump for delivering an agent to a patient similar to that of Campbell. In addition,

Malave further teaches a user interface to allow a user to define a banner with non-

pump parameter content (Fig. 13, patient name, Fig. 14 banner and corresponding text).

It would have been obvious to one of ordinary skill in the art, having the teachings of

Campbell and Malave before him at the time the invention was made, to modify the

pump interface banner programming taught by Campbell to include the user-defined

banner containing non-pump parameter content of Malave, in order to obtain a method

for programming a pump to display a user defined banner containing non-pump

parameter content. One would have been motivated to make such a combination

because a customizable banner of the user's choice for personal identification purposes

would have been obtained, as taught by Malave.

As in Independent Claim 8, Campbell teaches a pump comprising memory for

storing a banner (Fig. 1, ref. 16), a screen (Fig. 2, ref. 18), and a processor in data

communication with the memory and screen (Fig. 1, ref. 14) programmed to retrieve the

banner from memory (Page 5, Par. 58), and display it on the screen LCD, ref. 18, Fig.

22 status)., wherein the banner identifies the pump as an insulin pump (Bolus data,

Insulin type screen, U100U, Fig. 16 and 22). While Campbell teaches the hardware and

method of retrieving a banner and displaying in a home page on a screen, they fail to

show the banner comprising user-defined non-pump parameter content as recited in the

claims. In the same field of the invention, Malave teaches a pump for delivering an

agent to a patient similar to that of Campbell. In addition, Malave further teaches a user

interface to allow a user to define a banner with non-pump parameter content (Fig. 13,

patient name, Fig. 14 banner and corresponding text). It would have been obvious to

one of ordinary skill in the art, having the teachings of Campbell and Malave before him

at the time the invention was made, to modify the pump interface banner programming,

where the banner identifies the pump as an insulin pump taught by Campbell to include

the user-defined banner containing non-pump parameter content of Malave, in order to

obtain a method for programming a pump to display a user defined banner containing

non-pump parameter content. One would have been motivated to make such a

combination because a customizable banner of the user's choice for personal
identification purposes would have been obtained, as taught by Malave.

As in Claim 2, Campbell teaches retrieving a user-defined banner identifying the
programmable pump as an insulin pump (Bolus data, Insulin type screen, U100U, Fig.
16 and 22).

As in Claims 3 and 9, While Campbell teaches a programmable pump in data
communication with a computer, the computer programmed to receive a banner through
memory, they fail to show the banner containing information identifying the user of the
programmable pump as recited in the claims. In the same field of the invention, Malave
teaches a programmable pump similar to that of Campbell. In addition, Malave further
teaches a banner containing information identifying the user of the programmable pump
(Fig 14, Patient Name). It would have been obvious to one of ordinary skill in the art,
having the teachings of Campbell and Malave before him at the time the invention was
made, to modify the programmable pump in data communication with a computer, the
computer programmed to receive a banner from memory taught by Campbell to include
the banner identifying the pump's user of Malave, in order to obtain a banner from
memory displayed on the pump display identifying the pump's user. One would have
been motivated to make such a combination because a personalized pump display
would have been obtained, as taught by Malave.

As in Claims 4 and 10, Campbell teaches retrieving a banner containing medical
information specific to the user of the programmable pump (Basal Review, Prime
History).

As in Claims 6 and 12, Campbell teaches two or more of the pages generated by the user interface are home pages, and retrieving a banner from memory (ref. 16), includes retrieving two or more banners from memory, and displaying a banner one of the home pages and a banner on another of the home pages (Page 1, Par. 6 et seq.).

As in Claims 7 and 14, Campbell teaches downloading of the banner to the pump and loading the banner from memory onboard the programmable pump (Page 2, par 12-15).

As in Claim 13, Campbell teaches a data port, the processor being configured to receive a banner through the data port and store the banner in memory (See rejection of Claims 1 and 15 *supra*).

As in Independent Claim 16, Campbell teaches a data port (Fig. 1 ref. 46), memory (Fig. 1 ref. 16), the memory storing a list of selectively available banners (other users), a screen (Fig. 2 ref. 18), a processor in data communication with the data port (Fig. 1 ref. 14), the memory and the screen, the programmed to generate a user interface having a plurality of pages, at least one being a home page (Page 1, par 6), map one of the banners from the list of selectively available banners to the home page (Page 5, Par. 58), and display the banner in the home page (Fig. 22 status). While Campbell teaches the pump with hardware and programming to generate a home page which a banner is mapped to and displayed, they fail to show the banner comprising user-defined non-pump parameter content as recited in the claims. In the same field of the invention, Malave teaches a method for configuring a pump for delivering an agent to a patient similar to that of Campbell. In addition, Malave further teaches a user

interface to allow a user to define a banner with non-pump parameter content (Fig. 13,

patient name, Fig. 14 banner and corresponding text). It would have been obvious to

one of ordinary skill in the art, having the teachings of Campbell and Malave before him

at the time the invention was made, to modify the pump with hardware and

programming to generate a home page which a banner is mapped to and displayed

taught by Campbell to include the user-defined banner containing non-pump parameter

content of Malave, in order to obtain the pump with hardware and programming to

generate a home page which a banner is mapped to and displayed, the banner

containing non-pump parameter content. One would have been motivated to make

such a combination because a customizable banner of the user's choice for personal

identification purposes would have been obtained, as taught by Malave.

6.   Claim 5 and 11 rejected under 35 U.S.C. 103(a) as being unpatentable over

Campbell et al., US Patent Application Publication 2005/0137530, hereinafter Campbell,

Malave et al., US Patent Application Publication 2002/0193679, priority 9/29/1999,

hereinafter Malave and further in view of Estes et al., US Patent Application Publication

2003/0114836, hereinafter Estes.

        Campbell and Malave teach a method for programming a pump to display a user

defined banner containing non-pump parameter content (See claim 1 rejection *supra*).

While Campbell and Malave teaches a programmable pump in data communication with

a computer, the computer programmed to receive a banner through memory, the

banner being user defined and containing non-pump parameter content they fail to

show retrieving a banner identifying the caregiver for the user of the programmable

pump as recited in the claims. In the same field of the invention, Estes teaches a

programmable pump similar to that of Campbell and Malave. In addition, Estes further

teaches a banner containing information identifying the caregiver of the programmable

pump (Fig 3A, Facility Info, Physician Name). It would have been obvious to one of

ordinary skill in the art, having the teachings of Campbell and Malave and Estes before

him at the time the invention was made, to modify the programmable pump in data

communication with a computer, the computer programmed to receive a banner from

memory, the banner being user defined and containing non-pump parameter content

taught by Campbell and Malave to include the banner identifying the pump's caregiver

of Estes, in order to obtain a banner from memory, the banner being user defined and

containing non-pump parameter content displayed on the pump display identifying the

pump's caregiver. One would have been motivated to make such a combination

because an authorized pump display would have been obtained, as taught by Estes.

Response to Arguments

Applicant's arguments filed 6/10/08 have been fully considered but they are not

persuasive.

In response to the argument regarding the 112 rejection the examiner disagrees.

The applicant cites a line from the specification in order to equate non-pump parameter

content to personal information that identifies the owner of the insulin pump, however

the owner id of the pump is a parameter that identifies settings for the pump. Therefore it is not seen how the owner id can be considered a non-pump parameter.

The examiner notes that the claims do not define a freely editable banner or entering any information "as desired", but merely recite that the banner displays user-defined non-pump parameter content. If the applicant is equating the non-pump parameter to the owner id of the pump, the examiner notes that Malave teaches the user choosing the owner id fields (Fig. 12) and displaying it in the banner (Fig. 14).

Conclusion

The prior art made of record on form PTO-892 and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 C.F.R. § 1.111(c) to consider these references fully when responding to this action. The documents cited therein teach infusion pump displays.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sara M Hanne whose telephone number is (571) 272-4135. The examiner can normally be reached on M-F 7:30am-4:00pm, off on alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (571) 272-4847. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

smh

/Weilun Lo/

Supervisory Patent Examiner, Art Unit 2179